

4.5 PERMITS AND RELATED APPROVALS

Several federal and state laws and policies regulate actions of a proposed highway project. The legislative and regulatory listings that follow are applicable to this US 8 project.

Permits required for the upgrades or realignment of US 8 address wetlands, floodplains, air quality, residential and business relocations, roadway jurisdictional transfers, and possible impacts to public lands.

Department of the Army 404 Permits, as required under Section 404 of the Clean Water Act, cover placement of materials or alteration of wetlands or waters of the United States. An individual 404 permit is likely to be necessary for all build alignments. Early coordination with the U.S. Army Corps of Engineers, WDNR, and other cooperating agencies during the scoping process has initiated wetland permitting coordination (including wetland avoidances and minimization). Issuance of Section 404 permits is contingent upon receipt of water quality certification from the WDNR under Section 401 of the Clean Water Act and Wisconsin Administrative Code Chapters NR 103/NR299. Liaison efforts under the interagency Cooperative Agreement cover project development from early corridor alignment layout through selection of a recommended alternative, final design, and construction. Coordination with the WDNR will continue throughout the project development process.

Chapter NR 116 provides a uniform basis for the preparation and implementation of sound floodplain regulations for all Wisconsin floodplains to protect human life and health and to minimize property damages and economic losses. WisDOT's activities in connection with highway and bridge design, location, construction, reconstruction, maintenance, and repair are exempt from the permit requirements established under the following Wisconsin Statutes:

- Chapter 29.29—Noxious Substances
- Chapter 30—Navigable Waterways
- Chapter 59.971—Zoning of Shorelands on Navigable Waters
- Chapter 87.30—Floodplain Zoning
- Chapter 144—Water, Sewage, Refuse, Mining and Air Pollution
- Chapter 147—Pollution Discharge Elimination⁶

Additional permits govern the protection of residences and businesses expected to be affected by the proposed alignments. Individuals displaced as a result of any of the build alternatives will be protected by relocation assistance plans. These plans are required under Section 32.25, Wisconsin Statutes, and provide for relocation of displaced residences, businesses, and/or farms as required by the Wisconsin Department of Commerce as specified in Wisconsin Administrative Code Comm 202.24.

Changes and jurisdictional transfers relating to maintenance and management of the existing highway will be necessary if any bypass alternative is selected. Chapter 84 of Wisconsin Statutes will require official location modification of US 8 if any of the bypass alternatives is selected.

In order to comply with state air quality requirements specified in Wisconsin Administrative Code NR 411.04, WisDOT may or may not be required to obtain a "Construction of Modification and New Operation Permit" from the WDNR, contingent upon further revisions to the design plan.

Additional federal and state environmental laws, policies, regulations, and agreements, although not discussed in detail, require continuing coordination or are applicable during a future phase of the project development process. They include the following:

- Section 106 of the National Historic Preservation Act requires that federal, federally assisted, and federally licensed undertakings affecting properties included in the National Register of Historic Places be submitted to the State Historic Preservation Office (SHPO) for review and comment prior to the approval of any such undertakings by the federal agency.
- The Migratory Bird Treaty Act of 1918 protects migratory species. A special permit may be necessary to prevent or remove nests on affected bridge or culvert structures.

⁶ WisDOT Facilities Development Manual, 21-30-5, 1997.